IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
CHAMBER SUMMONS NO.1118 OF 2007
IN
SUIT NO.2508 OF 1998

Sanjay Trading Company ...Plaintiff
Versus
Vishwa Light & Sound Limited ...Defendants

Shri H.V.Chande for the Plaintiff.
Shri D.Yadav i/by Shri A.C.Singh for the Defendants.

CORAM : ABHAY S.OKA, J.
DATED : JULY 27, 2007.

P.C.:

1. Heard learned counsel appearing for the Defendants in support of the chamber summons. I have also heard the learned counsel appearing for the Plaintiff.

2. The prayer in the chamber summons is for condoning the delay in filing the written statement. The second prayer is for setting aside the order dated 20th April, 2007 passed by the Prothonotary and Senior Master of placing the suit under the caption of "Undefended Suits for Exparte Decree". The third prayer for a direction to the office to take the written statement on record. The chamber summons is strongly opposed by the Plaintiff by filing a reply. It is stated that the writ of summons was served on 10th August, 1998 and there is no explanation whatsoever for the delay from August 1998. He stated that the written statement is not tendered alongwith chamber summons and a copy thereof is not served to the Plaintiff.

3. The suit claim of the Plaintiff is in the sum of Rs.8,99,466.25/- with interest thereon. Considering the claim of the Plaintiff, in the interests of justice an opportunity deserves to be granted to the Defendant to defend the suit. Considering the long delay in filing the written statement, the Defendants will have to pay costs to the Plaintiff. Considering the delay involved, the amount of costs is quantified to Rs.15,000/- which will be a condition precedent.

4. Hence, the chamber summons is disposed of by passing following order:

(i) The Chamber Summons is made absolute in terms of prayer clauses (a) and (b) subject to condition of the Defendants paying costs of Rs.15,000/- to the Plaintiff on or before 27th August, 2007.

(ii) Payment of costs will be a condition precedent. If complaince is not made by paying costs within the stipulated time, the office will list the suit on 30th August, 2007 under the caption of "Undefended Suits for Exparte Decree". If compliance is made by the Defendants, the suit will be placed on 30th August, 1007 for framing issues. In such event, the Plaintiff will file draft issues on the next date.

JUDGE